

### **Remark**

Applicants respectfully request reconsideration of this application as amended. Claims 1, 12, 23, 27, 30, 34 have been amended. No claims have been cancelled. Therefore, claims 1-40 are present for examination.

### **35 U.S.C. §102 Rejection**

#### *Wallace*

The Examiner has rejected claims 1-6, 8-9, 12-18, 22-24, 26-28, 30-34 and 37-40 under 35 U.S.C. §102 (e) as being anticipated by Wallace, U.S. Publication No. 2002/0193146 ("Wallace"). The claims are clarified in the amendment above to more clearly bring out the distinctions from all of the references.

Claims 1 and 23 recite " using the comparison to determine whether reception at the remote terminal of radio signals transmitted from the base station to the remote terminal is likely to be improved by diversity transmission from the base station;" and "selecting to use diversity transmission for radio signals transmitted from the base station to the user remote terminal if reception at the remote terminal is likely to be improved." Neither of these elements are shown or suggested in Wallace.

Claims 12 and 27 recite, " selecting an amount of beam forming and an amount of transmit diversity to be applied to signals transmitted from the base station to the remote terminal using the measured characteristics of the signal received from the remote terminal." Wallace does not suggest any way to select amounts of beam forming or of transmit diversity. Wallace also does not suggest using measured characteristics of the signal received from the remote terminal in any transmit diversity selection.

Claims 30 and 34 contain limitations similar to those mentioned above.

### **Conclusion**

Applicant respectfully submits that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicant respectfully requests the rejections be withdrawn and the claims as amended be allowed.

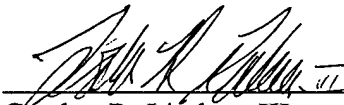
### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 3/15/05

  
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